

## REMARKS

Claims 1-6 were pending in this application, with Claim 1 being independent.

| Summary of Amendments |           |
|-----------------------|-----------|
| Claim(s)              | Change    |
| 1, 6                  | Amended   |
| -                     | Withdrawn |
| -                     | Cancelled |
| 7-11                  | Added     |

Claims 7-11 have been added. Support is summarized as follows:

| SUMMARY OF CLAIM AMENDMENTS AND SUPPORT |                                                                   |                        |
|-----------------------------------------|-------------------------------------------------------------------|------------------------|
| Claim                                   | Amendments (summarized)                                           | Support <sup>1</sup>   |
| 1                                       | Amended to recite that the main body material is a metallic alloy | 0014                   |
| 6                                       | Addresses dependency                                              | n/a                    |
| 7                                       | New                                                               | 0014, 0034             |
| 8                                       | New                                                               | 0014, 0016, 0034       |
| 9                                       | New                                                               | 0013, 0016, 0034, 0050 |
| 10                                      | New                                                               | 0016, Figs. 3A, 3B     |
| 11                                      | New                                                               | 0023, 0044             |

No new matter has been added.

## ARGUMENTS

Tormala is cited under Section 102(b) as disclosing controlling degradation by varying the wall thickness or by subjecting the main body to deformation. Tormala discloses one or more zones / areas of coating (like "coating plateaus") with the meaning that one or more locations (x) are within these zones. Every zone has one special degradation curve. Therefore, one or more locations (x) have the same degradation curve. Tormala teaches controlling degradation by causing disintegration or dissolution of the implant starting at one end of the elongated structure

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<sup>1</sup> All cites to the specification for support are exemplary only and are not intended to be an exhaustive listing of all instances of support.

and progressing toward the other end. Additionally, Tormala discloses a polymer as material of the base body. The presently claimed implant has a main body made of a metallic alloy.

These differences are very important. One significant problem which should be solved is to avoid fragmentation of an implant comprising a biodegradable base body made of a metallic material. For example, dilation of a stent from an unexpanded to an expanded state is facilitated in sections from the middle of the stent to both ends. Depending on the dilatation state, the metal base body is stressed at different locations (in particular, at pivoting points of the slotted tube design). Such stress leads to micro ruptures in the metallic microstructure of the base body which causes fast degradation and fragmentation of the base body at these locations. Therefore, it is important that the degradation curve of such implants is predefined at every location. Please note that because of their elastic modulus, polymeric base bodies do not have the problem of fragmentation.

In contrast, the presently claimed implant is not limited to a linear degradation process. Rather, the implant can degrade at different places simultaneously. For example, a tubular implant can degrade at both ends faster than the middle, so that the middle area positioned proximate to a lesion can remain longer than the implant ends, which extend in the blood vessel beyond the lesion area and may not be needed as long as the middle area.

Tormala is not suitable for solving the addressed problem because Tormala has one or more zones of coating with one predefined degradation curve. As the base body normally has one thickness, it is not possible to solve the problem with the teaching of Tormala because all locations within this zone have the same degradation curve and this would avoid stressed locations in the base body.

Accordingly, Tormala does not anticipate the presently claimed invention.

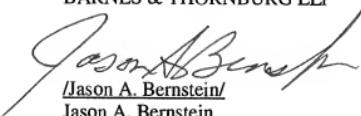
Regarding the provisional double patenting rejection, Applicant will formally respond should the rejection be formally issued.

### CONCLUSION

Applicant submits that the present application is in condition for allowance and respectfully requests such action. If the Examiner has any questions that can be answered by telephone, please contact the undersigned attorney of record at the telephone number listed below. It is requested that, if necessary to effect a timely response, this paper be considered a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg LLP, Deposit Account No. **50-4913**.

Respectfully submitted,

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